

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

**SUMMARY ORDER**

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 8<sup>th</sup> day of May, two thousand eighteen.

**PRESENT:**

ROBERT D. SACK,  
BARRINGTON D. PARKER,  
DEBRA ANN LIVINGSTON,  
*Circuit Judges.*

RONGWEI ZHANG,  
*Petitioner,*

v.

JEFFERSON B. SESSIONS III,  
UNITED STATES ATTORNEY GENERAL,  
*Respondent.*

16-2797  
NAC

**FOR PETITIONER:** Thomas V. Massucci, New York, NY.

**FOR RESPONDENT:** Chad A. Readler, Acting Assistant Attorney General; Julie M. Iversen, Senior Litigation Counsel; Annette M. Wietecha, Trial Attorney, Office of Immigration Litigation, United States Department of Justice, Washington, DC.

1       UPON DUE CONSIDERATION of this petition for review of a  
2 Board of Immigration Appeals ("BIA") decision, it is hereby  
3 ORDERED, ADJUDGED, AND DECREED that the petition for review  
4 is DENIED.

5       Petitioner Rongwei Zhang, a native and citizen of the  
6 People's Republic of China, seeks review of an August 1,  
7 2016, decision of the BIA affirming a December 9, 2014,  
8 decision of an Immigration Judge ("IJ") denying Zhang's  
9 application for asylum, withholding of removal, and relief  
10 under the Convention Against Torture ("CAT"). *In re*  
11 *Rongwei Zhang*, No. A205 427 612 (B.I.A. Aug. 1, 2016),  
12 *aff'g* No. A205 427 612 (Immig. Ct. N.Y. City Dec. 9, 2014).  
13 We assume the parties' familiarity with the underlying  
14 facts and procedural history in this case.

15       Under the circumstances of this case, we have reviewed  
16 both the BIA's and IJ's decisions. *Yun-Zui Guan v.*  
17 *Gonzales*, 432 F.3d 391, 394 (2d Cir. 2005). The applicable  
18 standards of review are well established. See 8 U.S.C.  
19 § 1252(b)(4)(B); *Xiu Xia Lin v. Mukasey*, 534 F.3d 162, 165-  
20 66 (2d Cir. 2008).

21       "Considering the totality of the circumstances, and all  
22 relevant factors, [an IJ] may base a credibility  
23 determination on the applicant's . . . demeanor, candor, or

1 responsiveness . . . the consistency between the  
2 applicant's . . . written and oral statements . . ., the  
3 internal consistency of each such statement, [and] the  
4 consistency of such statements with other evidence of  
5 record." 8 U.S.C. § 1158(b)(1)(B)(iii); see also *Xiu Xia*  
6 *Lin*, 534 F.3d at 163-64, 167. "We defer . . . to an IJ's  
7 credibility determination unless . . . it is plain that no  
8 reasonable fact-finder could make such an adverse  
9 credibility ruling." *Xiu Xia Lin*, 534 F.3d at 167.  
10 Substantial evidence supports the agency's determination  
11 that Zhang was not credible.

12       The agency reasonably relied on a discrepancy regarding  
13 Zhang's detention: while Zhang alleged that she was  
14 detained at her workplace for 2 days and was later arrested  
15 and detained by the police for 6 days, letters she  
16 submitted from her husband and her sister describe threats  
17 and harassment, but do not mention that she was arrested or  
18 detained. 8 U.S.C. § 1158(b)(1)(B)(iii); *Xiu Xia Lin*, 534  
19 F.3d at 166-67 & n.3 ("An inconsistency and an omission  
20 are, for [credibility] purposes, functionally  
21 equivalent."). Zhang did not provide an explanation for  
22 the discrepancy. See *Majidi v. Gonzales*, 430 F.3d 77, 80-  
23 81 (2d Cir. 2005) (holding that agency is not required to

1 credit explanations that are less than compelling).  
2 Discrepancies regarding Zhang's union membership and the  
3 date and manner she was fired from her job at the liquor  
4 factory provided further support for the adverse  
5 credibility ruling. 8 U.S.C. § 1158(b)(1)(B)(iii); *Xiu Xia*  
6 *Lin*, 534 F.3d at 166-67.

7 The adverse credibility determination was bolstered by  
8 the IJ's negative demeanor assessment, to which we defer.  
9 *See Li Hua Lin v. U.S. Dep't of Justice*, 453 F.3d 99, 109 (2d  
10 Cir. 2006) (granting particular deference to the agency's  
11 demeanor findings). Review of the transcript confirms that  
12 Zhang took several long pauses and had difficulty answering  
13 questions, especially on cross examination.

14 The agency also reasonably relied on Zhang's failure to  
15 provide rehabilitative corroborating evidence. *See Biao*  
16 *Yang v. Gonzales*, 496 F.3d 268, 273 (2d Cir. 2007) ("An  
17 applicant's failure to corroborate [her] . . . testimony  
18 may bear on credibility, because the absence of  
19 corroboration in general makes an applicant unable to  
20 rehabilitate testimony that has already been called into  
21 question."). The agency did not err in discounting the  
22 letters from Zhang's husband and sister: these letters were  
23 authored by interested witnesses who were unavailable for

1 cross examination, the letters contained substantially  
2 similar language, and, as described above, the letters  
3 conflicted with Zhang's testimony because they omitted her  
4 detention. *Y.C. v. Holder*, 741 F.3d 325, 334 (2d Cir.  
5 2013) (deferring to agency's decision to give limited  
6 weight to letter from applicant's spouse in China). And  
7 Zhang's failure to submit proof of her employment was  
8 problematic because she alleged that she was employed at  
9 the same factory for over 20 years and received multiple  
10 awards for her performance.

11 Because Zhang's claims were all based on the same  
12 factual predicate, the adverse credibility determination is  
13 dispositive of asylum, withholding of removal, and CAT  
14 relief. *Paul v. Gonzales*, 444 F.3d 148, 156-57 (2d Cir.  
15 2006). In light of this outcome, we do not address the  
16 agency's alternative conclusion that Zhang was not harmed  
17 on account of a political opinion. See *INS v. Bagamasbad*,  
18 429 U.S. 24, 25 (1976) ("As a general rule courts and  
19 agencies are not required to make findings on issues the  
20 decision of which is unnecessary to the results they  
21 reach.").

22 For the foregoing reasons, the petition for review is  
23 DENIED. As we have completed our review, any stay of removal

1   that the Court previously granted in this petition is VACATED,  
2   and any pending motion for a stay of removal in this petition  
3   is DISMISSED as moot. Any pending request for oral argument  
4   in this petition is DENIED in accordance with Federal Rule of  
5   Appellate Procedure 34(a)(2), and Second Circuit Local Rule  
6   34.1(b).

7                               FOR THE COURT:

8                               Catherine O'Hagan Wolfe, Clerk of Court  
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